



INTERIOR BOARD OF INDIAN APPEALS

Estate of Douglas Keams

37 IBIA 111 (01/22/2002)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

ESTATE OF DOUGLAS KEAMS : Order Docketing and Dismissing
: Appeal
:
: Docket No. IBIA 02-40
:
: January 22, 2002

On January 14, 2002, the Board of Indian Appeals received, by transmittal from the office of Administrative Law Judge Patricia McDonald, a document which may have been intended as a notice of appeal from a September 23, 1996, Order upon Order to Show Cause issued by Judge McDonald in the Estate of Douglas Keams, IP AL 5L 91, IP AL 249L 95. The transmitted document is a letter written by Zearl Keams (Appellant). It is addressed to Judge McDonald's office and was received in that office on October 25, 1996. For purposes of this order, the Board assumes that Appellant intended his letter to be a notice of appeal.

Judge McDonald's September 23, 1996, order was an order on rehearing. In that order, the Judge informed the parties that any appeal must be filed within 60 days and must be filed with the Board. Her order also provided the Board's address.

Where a party to an Indian probate is given correct appeal instructions but files his notice of appeal with the Administrative Law Judge rather than the Board, and the filing does not reach the Board within the appeal period established by the Board's regulations, the appeal must be dismissed as untimely. See, e.g., Estate of Imogene Iron Teeth Fast Horse, 36 IBIA 208 (2001). ^{1/} Appellant has failed to file a timely notice of appeal.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is docketed but is dismissed as untimely.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge

^{1/} In this case, there was a substantial delay in transmitting Appellant's filing to the Board. However, an appellant who fails to follow appeal instructions, and files his notice of appeal in the wrong office, must bear the risk of any delay in transmitting the notice to the Board. E.g., Reeves v. Anadarko Area Director, 25 IBIA 40, 41 n.1 (1993).